

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION NO.8907 OF 1991

CORAM : N.N.MATHUR, J.
(DATE OF JUDGMENT : 09.07.1996)

Mr. Saiyed, learned counsel for the petitioner

ORAL JUDGMENT :

1. By way of this Special Civil Application under Article 226 of the Constitution of India, the petitioner has challenged the order dated 22.08.1990 whereby the District Magistrate - Surat has cancelled the license in favour of the petitioner for the arms viz. revolver 22 bores and rifle 32 bores. The petitioner was served with a notice dated 19.07.1990 stating inter alia that there was information that he was putting illegal cabins on the Government land situated in Olpad bazaar and by selling or letting out those cabins, he was making financial gains. It is further stated that the petitioner by possessing the arms like revolver and rifle has been terrorizing the people. The petitioner was asked to submit his explanation through personal appearance or by appearance of the representative on 23rd June 1990. After hearing the petitioner and considering the written arguments, District Magistrate formed the opinion that in order to prevent the petitioner from giving threats and with a view to prevent him from creating such atmosphere and also with a view to prevent him from misusing the arms license, in the public interest, it was necessary to cancel his arms license. Against the said order, the petitioner preferred an appeal to the State Government. It was contended before the State Government that since 1974, he has been working as an informant of the Government and as such, he has an apprehension to his life from the smugglers and other antisocial elements, thus, for his self-defence, it was necessary that he should be allowed to keep Arms. In the view of the State Government, the petitioner did not give any information to the Custom Department since 1981 and thus, there could be no apprehension to his life. The another contention that there was no question of letting out the cabins arises as the same have been pulled down by the Mamlatdar, was also rejected by the State Government.

2. I have heard Mr Saiyed, learned counsel for the petitioner. He has reiterated the contentions raised

before the State Government. The contentions raised have been considered by the State Government and in my view, there is no illegality therein. It is also submitted that, on the earlier occasion, the petitioner's license was sought to be cancelled in the year 1983 by issuing show cause notice, but after hearing the petitioner, the same was dropped. In view of this, it is not open for the District Magistrate now to reopen the matter on the same facts. There is no substance in this contention as the grounds on which the license has been cancelled by the impugned order is fresh and has nothing to do with the allegations of the year 1984. It is next contended that the District Magistrate has no power to direct for the collection of the arms as he has not been empowered on behalf of the Central Government as required under section 19 of the Arms Act. The petitioner cannot be permitted to raise this contention as this was not raised before the District Magistrate or the State Government. It is lastly contended that, during the pendency of the petition, a notice was given to the petitioner under section 24(4) of the Arms Act for forfeiture of the arms in question. He has also stated that he moved a civil application in that regard and this Court, by interim order, has stayed the further proceedings in pursuance of the said notice. It may be stated that in the main Special Civil Application, there is neither any pleadings nor any relief claimed with respect to the notice under section 24(4) of the Arms Act and as such, the same cannot be permitted to be raised. The petitioner cannot raise this plea simply because he has stated those facts in a civil application and on the basis of that, he obtained the interim order. The petitioner may file a reply to the showcause notice under section 24(4) of the Arms Act before the appropriate authority and take appropriate remedy available.

3. In view of the aforesaid, there is no merits in this Special Civil Application and the same is accordingly rejected. Interim relief granted by this Court on the civil application is vacated.

Dated : July 09, 1996

(N.N.MATHUR, J.)

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